

HOUSE BILL No. 1157

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-9-43.

Synopsis: Open-market PACE programs. Authorizes the legislative body of a local governmental unit to designate an area as a clean energy improvement financing district and authorize financing of certain qualified clean energy improvements, including reduced water consumption and waste water discharges, through assessments. Requires the utility regulatory commission to adopt rules to establish technical guidelines to assist units in administering a district's program.

Effective: Upon passage.

Forestal

January 13, 2014, read first time and referred to Committee on Utilities and Energy.



PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1157

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-9-43 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 43. Property Assessed Clean Energy Program**

5 **Sec. 1. As used in this chapter, "actual net energy costs", with**
6 **respect to property on which a qualified clean energy improvement**
7 **described in section 13(1) or 13(2) of this chapter is installed,**
8 **means the actual net costs for energy consumed on the property**
9 **after the installation of the qualified clean energy improvement, as**
10 **calculated:**

11 **(1) during the term of the assessment period at intervals that:**

12 **(A) are specified by the board upon approving the**
13 **property owner's application under section 19 of this**
14 **chapter; and**

15 **(B) are determined in accordance with the methodology**
16 **established by the board under section 17(b)(6)(A) of this**



chapter;

(2) by the qualified provider installing the qualified clean energy improvement or by a utility providing retail energy service to the property, as specified by the board; and

(3) according to a methodology using industry engineering standards.

The term does not include any net metering surcharge to a customer of a public utility that may be imposed by a public utility to recover part or all of the costs of equipment or services related to allowing the customer to generate its own energy and sell its excess energy back to the public utility in order to offset the costs of the customer's energy supplied by the public utility.

Sec. 2. As used in this chapter, "actual net water costs", with respect to property on which a qualified clean energy improvement described in section 13(3) of this chapter is installed, means the actual net costs for water consumed on the property after the installation of the qualified clean energy improvement, as calculated:

(1) during the term of the assessment period, at intervals that:

(A) are specified by the board upon approving the property owner's application under section 19 of this chapter; and

(B) are determined in accordance with the methodology established by the board under section 17(b)(6)(A) of this chapter;

(2) by the qualified provider installing the qualified clean energy improvement or by a utility providing retail water service to the property, as specified by the board; and

(3) according to a methodology using industry engineering standards.

Sec. 3. As used in this chapter, "assessment period" means a term of years during which an assessment imposed under this chapter on a particular property is payable to the treasurer of the county under section 21 of this chapter in which the property is located, a board under section 23 of this chapter, or a third party under section 19(e) of this chapter and that:

(1) is based on the expected useful life of the qualified clean energy improvement to the property, as measured from the date of final installation; but

(2) does not exceed twenty (20) years.

Sec. 4. As used in this chapter, "board" refers to a body designated in a resolution or an ordinance adopted under section



17 of this chapter by:

- (1) the legislative body of a unit; or
- (2) the legislative bodies of all participating units if two (2) or more units adopt a resolution or an ordinance under section 17 of this chapter;

to administer this chapter with respect to a district.

Sec. 5. As used in this chapter, "clean energy resources" means the following sources and programs for the production or conservation of electricity:

- (1) Energy from wind.
- (2) Solar energy.
- (3) Photovoltaic cells and panels.
- (4) Energy from:
 - (A) landfill gas to electric systems;
 - (B) manure to gas systems; and
 - (C) biomass anaerobic digestion facilities and biomass gasification facilities, subject to IC 13-20-10.5.
- (5) Geothermal heating and cooling systems.
- (6) Energy from waste heat recovery systems.
- (7) Demand side management or energy efficiency initiatives that:
 - (A) reduce electricity consumption; or
 - (B) implement load management, demand response, or energy efficiency measures designed to shift customers' electric loads from periods of higher demand to periods of lower demand.

Sec. 6. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 7. (a) As used in this chapter, "conservation measure" means:

- (1) an alteration of a structure, building, or fixture permanently fixed to real property, including an alteration to:
 - (A) the site on which the structure, building, or fixture is located; and
 - (B) any equipment in or on, and appurtenances to, the structure, building, or fixture; or
- (2) a technology upgrade;
 - designed to reduce energy or water consumption or to discharge wastewater from the property in a manner that complies with public health or environmental standards or requirements.
- (b) The term includes the following:
 - (1) Providing insulation of the facility, structure, building, or



1 fixture and systems in the facility, structure, building, or
2 fixture.

3 (2) Installing or providing for window and door systems,
4 including:

5 (A) storm windows and storm doors;

6 (B) caulking or weatherstripping;

7 (C) multiglazed windows and doors;

8 (D) heat absorbing or heat reflective glazed and coated
9 windows and doors;

10 (E) additional glazing;

11 (F) a reduction in glass area; and

12 (G) other modifications that reduce energy consumption.

13 (3) Installing automatic energy control systems.

14 (4) Modifying or replacing heating, ventilating, or air
15 conditioning systems.

16 (5) Installing or modifying lighting systems.

17 Sec. 8. As used in this chapter, "district" refers to a clean energy
18 improvement financing district designated by a legislative body in
19 a resolution or an ordinance adopted under section 17 of this
20 chapter.

21 Sec. 9. As used in this chapter, "eligible property" means any of
22 the following types of property:

23 (1) Commercial.

24 (2) Industrial.

25 (3) Agricultural (excluding homesteads).

26 (4) Property owned by an approved postsecondary
27 educational institution (as defined in IC 21-7-13-6(a)).

28 (5) Property that:

29 (A) is owned by a nonprofit organization; and

30 (B) is not classified as residential for property tax
31 purposes.

32 Sec. 10. As used in this chapter, "program" refers to a
33 voluntary property assessed clean energy program established
34 under section 17 of this chapter.

35 Sec. 11. As used in this chapter, "projected net energy costs",
36 with respect to property on which a qualified clean energy
37 improvement described in section 13(1) or 13(2) of this chapter is
38 installed, means the projected net costs for energy consumed on the
39 property after the installation of the qualified clean energy
40 improvement, as calculated:

41 (1) before the assessment period begins;

42 (2) for the term of the assessment period, at intervals that:



(A) are specified by the board upon approving the property owner's application under section 19 of this chapter; and

(B) are determined in accordance with the methodology established by the board under section 17(b)(6)(A) of this chapter;

(3) by the qualified provider installing the qualified clean energy improvement or by a utility providing retail energy service to the property, as specified by the board; and

(4) according to a methodology using industry engineering standards.

The term does not include any net metering surcharge to a customer of a public utility that may be imposed by a public utility to recover part or all of the costs of equipment or services related to allowing the customer to generate its own energy and sell its excess energy back to the public utility in order to offset the costs of the customer's energy supplied by the public utility.

Sec. 12. As used in this chapter, "projected net water costs", with respect to property on which a qualified clean energy improvement described in section 13(3) of this chapter is installed, means the projected net costs for water consumed on the property after the installation of the qualified clean energy improvement, as calculated:

(1) before the assessment period begins;

(2) for the term of the assessment period, at intervals that:

(A) are specified by the board upon approving the property owner's application under section 19 of this chapter; and

(B) are determined in accordance with the methodology established by the board under section 17(b)(6)(A) of this chapter;

(3) by the qualified provider installing the qualified clean energy improvement or by a utility providing retail water service to the property, as specified by the board; and

(4) according to a methodology using industry engineering standards.

Sec. 13. As used in this chapter, "qualified clean energy improvement" means any of the following:

(1) A fixture, product, system, device, or interacting group of devices that is permanently installed behind the meter of any building to:

(A) produce electricity from one (1) or more clean energy



resources; or

(B) reduce energy consumption.

(2) A conservation measure designed to reduce energy consumption.

(3) A conservation measure designed to reduce water consumption.

(4) A conservation measure designed to discharge wastewater from the property in a manner that complies with public health or environmental standards or requirements, including a project involving:

(A) the discontinuance of the use of a privy, a cesspool, a septic tank, a septic tank soil absorption system (as defined in IC 13-11-2-199.5), or another similar structure on real property producing sewage or similar waste; and

(B) the connection of the real property to a sanitary sewer system.

Sec. 14. As used in this chapter, "qualified provider" means a person that:

(1) is experienced in the design, implementation, and installation of qualified clean energy improvements; and

(2) meets any other requirements established by a legislative body in a resolution or an ordinance adopted under section 17 of this chapter.

Sec. 15. As used in this chapter, "utility" means:

(1) a public utility (as defined in IC 8-1-2-1(a));

(2) a municipally owned utility (as defined in IC 8-1-2-1(h));

(3) a utility organized under IC 8-1-11.1;

(4) a nonprofit utility;

(5) a cooperatively owned corporation;

(6) a conservancy district established under IC 14-33; or

(7) a regional district established under IC 13-26;

that provides retail energy, water, or wastewater service to the public in Indiana, regardless of whether the entity described in subdivisions (1) through (7) is under the jurisdiction of the commission.

Sec. 16. This chapter applies to all units except townships.

Sec. 17. (a) After June 30, 2014, the legislative body of a unit, or the legislative bodies of two (2) or more units, may adopt a resolution or an ordinance to:

(1) establish a voluntary property assessed clean energy program;

(2) designate a clean energy improvement financing district;



1 and

2 (3) authorize within the district the financing of qualified
3 clean energy improvements under this chapter.

4 If two (2) or more units adopt a resolution or an ordinance under
5 this section, each participating unit must be contiguous to at least
6 one (1) other participating unit.

7 (b) A resolution or an ordinance adopted under subsection (a)
8 must do the following:

9 (1) Establish the geographic boundaries of the proposed
10 district.

11 (2) Designate one (1) of the following as the board responsible
12 for administering this chapter with respect to the district:

13 (A) The members of the legislative body. Subject to
14 subsection (c)(2), if two (2) or more units adopt a
15 resolution or an ordinance under this section, the board
16 may consist of one (1) or any combination of the
17 participating units' legislative bodies.

18 (B) The members of a redevelopment commission
19 established under IC 36-7 for the unit. Subject to
20 subsection (c)(2), if two (2) or more units adopt a
21 resolution or an ordinance under this section, the board
22 may consist of one (1) or any combination of the
23 participating units' redevelopment commissions.

24 (C) A new body consisting of members who are:

25 (i) appointed by the legislative body of the unit for terms
26 specified by the legislative body of the unit; and

27 (ii) qualified by knowledge and experience to administer
28 this chapter with respect to the district.

29 A body designated under this clause must have an odd
30 number of members. Not more than one-half (1/2) the
31 number of members of the body plus one (1) may be
32 members of the same political party. Subject to subsection
33 (c)(2), if two (2) or more units adopt a resolution or an
34 ordinance under this section, the board must consist of a
35 number of members appointed by the legislative body of
36 each participating unit. The number of members appointed
37 by any one (1) participating unit must bear the same
38 proportion to the total number of members of the board
39 that the number of eligible properties that are located both
40 in the appointing unit and in the district bears to the total
41 number of eligible properties in the district.

42 (3) Describe the proposed method of financing of qualified



clean energy improvements installed in the district.
Permissible methods include one (1) or more of the following:

(A) Soliciting owner arranged financing from a commercial lender.

(B) Obtaining federal or state:

(i) grants;

(ii) loans; or

(iii) both grants and loans;

subject to any applicable program requirements for the grants or loans obtained.

(4) Establish the qualifications for qualified providers under the program, including any required performance bond to ensure a qualified provider's faithful performance of the qualified provider's obligations over the term of the assessment period for a qualified clean energy improvement.

(5) Require that only a qualified provider or a utility, or an employee or agent of either, may install equipment in, make modifications to, or remodel a structure, building, or fixture in connection with the installation of a qualified clean energy improvement under the program.

(6) For qualified clean energy improvements described in section 13(1) through 13(3) of this chapter, establish the following:

(A) A methodology for determining:

(i) intervals during the term of an assessment period for which a qualified provider or a utility must calculate, before the assessment period begins, projected net energy costs or projected net water costs, as applicable; and

(ii) corresponding intervals during the term of the assessment period for which a qualified provider or a utility must calculate, during the term of the assessment period, actual net energy costs or actual net water costs, as applicable.

A methodology established under this clause must ensure that the intervals described in items (i) and (ii) are based on the number of years in the assessment period, and on the particular type of qualified clean energy improvement and the technology involved.

(B) For qualified clean energy improvements described in section 13(1) through 13(3) of this chapter that are financed with more than two hundred fifty thousand



dollars (\$250,000) in assessments, a reconciliation mechanism to:

(i) account for any variance between projected net energy costs and actual net energy costs, or between projected net water costs and actual net water costs, as applicable, at the intervals specified by the board in accordance with the methodology described in clause (A); and

(ii) provide for a refund or credit to the property owner, or a payment or surcharge from the property owner, as appropriate, to adjust for the variance, at such times as the board may prescribe.

In establishing a methodology under clause (A) or a reconciliation mechanism under clause (B), the legislative body of the unit or units may consult the technical guidelines established by the commission in rules adopted under section 25 of this chapter.

(7) Limit participation in the program to owners of eligible property.

(c) If the legislative bodies of two (2) or more units adopt a resolution or an ordinance under this section, the resolution or ordinance adopted by each legislative body must:

(1) comply with subsection (b); and

(2) be identical to those adopted by all other participating units.

(d) The boundaries of a district need not coincide with those of any one (1) or more units, subject to the requirement set forth in subsection (a) with respect to the boundaries of participating units in the case of a district established under this section by two (2) or more units.

Sec. 18. In addition to other powers exercised by a legislative body designated as a board, the board may do the following with respect to a program:

(1) Make and enter into contracts and other instruments with public and private entities.

(2) Accept grants, guarantees, and donations of property, labor, services, and other things of value from any public or private source.

(3) Employ or contract for managerial, legal, technical, clerical, accounting, or other assistance.

(4) Levy and collect assessments in accordance with sections 19 through 23 of this chapter.



- (5) Borrow money from any public or private source.
- (6) Provide for the investment of any funds not required for immediate disbursement in the same manner as other municipal funds are invested.
- (7) Subject to section 22 of this chapter, record an assessment as a lien on an assessed property.
- (8) Develop appropriate underwriting guidelines for the program, including:
 - (A) assurances that the assessment period for any qualified clean energy improvement under the program does not exceed the expected useful life of the improvement as measured from the date of final installation;
 - (B) the appropriate ratio of an assessment under this chapter to the assessed value of the property subject to the assessment, as determined after the installation of a qualified clean energy improvement to the property; and
 - (C) verification that a property owner does not owe delinquent property taxes, special assessments, or sewer charges.
- (9) Exercise other powers necessary to carry out the board's responsibilities under this chapter.

Sec. 19. (a) A property owner that desires to participate in a program established under this chapter shall submit an application to the board in the form and according to a schedule determined by the board. The application must contain the following:

- (1) The address and legal description of the property on which the qualified clean energy improvement for which the property owner desires financing will be installed.
- (2) A description and the cost of all qualified clean energy improvements proposed to be installed on the property.
- (3) An agreement, separately signed by the property owner, to participate in the financing of the qualified clean energy improvement through the imposition of an assessment on the property.
- (4) A statement showing no delinquent property taxes, special assessments, or sewer charges for the property for the shorter of the following:
 - (A) The two (2) immediately preceding taxable years.
 - (B) The period during which the property owner has owned the property.
- (5) An agreement, separately signed by the property owner, to have a qualified provider or a utility, as specified by the



board, perform a baseline audit with respect to the property to verify to the board that the qualified clean energy improvement is installed properly and is operating as intended, and to establish the following:

(A) In the case of a qualified clean energy improvement described in section 13(1) of this chapter, the projected net energy costs with respect to the property, at the intervals determined by the board in accordance with the methodology established by the board under section 17(b)(6)(A) of this chapter. If the property owner participates in a net metering or feed-in-tariff program offered by an electric utility with respect to the qualified clean energy improvement, projected net energy costs under this clause may be calculated based on the amount of energy that would have been consumed on the property absent the property owner's participation in the net metering or feed-in-tariff program, as applicable.

(B) In the case of a qualified clean energy improvement described in section 13(2) of this chapter, the projected net energy costs with respect to the property, at the intervals determined by the board in accordance with the methodology established by the board under section 17(b)(6)(A) of this chapter.

(C) In the case of a qualified clean energy improvement described in section 13(3) of this chapter, the projected net water costs with respect to the property, at the intervals determined by the board in accordance with the methodology established by the board under section 17(b)(6)(A) of this chapter.

(D) In the case of a qualified clean energy improvement described in section 13(4) of this chapter, that the discharge of wastewater from the property will occur in a manner that complies with public health or environmental standards or requirements as a result of the installation of the qualified clean energy improvement.

A baseline audit described in this subdivision shall be performed after the clean energy improvement is installed and before the assessment period begins.

(6) For a qualified clean energy improvement financed with more than two hundred fifty thousand dollars (\$250,000) in assessments, the following:

(A) In the case of a qualified clean energy improvement



described in section 13(1) through 13(3) of this chapter, an agreement, separately signed by the property owner, to provide the board, at the intervals determined by the board in accordance with the methodology established by the board under section 17(b)(6)(A) of this chapter:

- (i) the actual net energy costs for the property; or
- (ii) the actual net water costs for the property;

as applicable.

(B) In the case of a qualified clean energy improvement described in section 13(1) or 13(2) of this chapter, a written guarantee by the qualified provider or the utility, as applicable, that:

- (i) the qualified clean energy improvement will achieve a net energy cost savings to investment ratio greater than one (1) over the term of the assessment period; and
- (ii) if the actual net energy costs at a particular interval exceed the projected net energy costs for that interval, the qualified provider or the utility will pay or credit to the property owner the difference between the actual net energy costs and the projected net energy costs, at the times and subject to any reconciliation mechanism the board may prescribe upon approving the property owner's application under this section.

(C) In the case of a qualified clean energy improvement described in section 13(3) of this chapter, a written guarantee by the qualified provider or the utility, as applicable, that:

- (i) the qualified clean energy improvement will achieve a net water cost savings to investment ratio greater than one (1) over the term of the assessment period; and
- (ii) if the actual net water costs at a particular interval exceed the projected net water costs for that interval, the qualified provider or the utility will pay or credit to the property owner the difference between the actual net water costs and the projected net water costs, at the times and subject to any reconciliation mechanism the board may prescribe upon approving the property owner's application under this section.

(b) The board shall:

- (1) review; and
- (2) approve or deny;



1 an application submitted under subsection (a) according to a
 2 schedule determined by the board. The board shall use the costs
 3 reported under subsection (a)(2) to impose an assessment on each
 4 property for which an application is approved. The decision of the
 5 board as to all assessments is final and conclusive on all parties.

6 (c) A property owner may withdraw or amend an application at
 7 any time before an assessment is imposed on the owner's property
 8 under subsection (b) and recorded in an assessment roll under
 9 section 20 of this chapter.

10 (d) The board shall communicate with all parties having an
 11 interest in a property for which an application is approved in a
 12 manner consistent with the procedures and practices for special
 13 assessments.

14 (e) A board that imposes an assessment may:

- 15 (1) allow a third party that has provided financing for a clean
 16 energy improvement to collect the assessments with respect to
 17 the clean energy improvement; and
- 18 (2) require the third party to inform the board if an
 19 installment of an assessment is delinquent.

20 Sec. 20. (a) The board shall prepare an assessment roll and,
 21 subject to any withdrawal or amendment of an application under
 22 section 19(c) of this chapter, enter the amount of the assessment
 23 imposed on each property in the district for which one (1) or more
 24 clean energy improvements will be financed under this chapter in
 25 the amount of assessment. The assessment roll must include the
 26 following for each property subject to an assessment under this
 27 chapter:

- 28 (1) The name of the owner.
- 29 (2) A description of the property.
- 30 (3) The total assessment.
- 31 (4) The annual installment of the assessment determined
 32 under section 21 of this chapter.

33 An assessment against a property on the assessment roll is
 34 presumed to be of special benefit to the property.

35 (b) The board shall complete and confirm the assessment roll
 36 and record the completed assessment roll and any later additions
 37 to the assessment roll with the county recorder of each county in
 38 which a property listed on the roll is located. A county recorder
 39 who records an assessment roll under this subdivision shall
 40 cross-reference the assessment roll on the most recent deed of
 41 record in the recorder's office for each property listed on the roll.



1 The recorder shall charge a fee in accordance with IC 36-2-7-10,
2 which may be assessed from the property owner.

3 Sec. 21. (a) Subject to this chapter, an assessment shall be paid
4 in the installments and to the persons specified in the agreement
5 entered into under section 19 of this chapter. The annual amount
6 payable for all installment payments in a year on an assessment is
7 equal to the quotient of:

8 (1) the total assessment determined for the property under
9 this chapter; divided by

10 (2) the number of years in the assessment period.

11 Subject to subsection (c), the amount shall be billed to a property
12 regardless of any changes in ownership of the property. A change
13 in ownership of the property does not accelerate or otherwise alter
14 the term of the assessment period.

15 (b) If sections 19(e) and 23 of this chapter do not apply to an
16 assessment, the board shall and, if an owner fails to pay one (1) or
17 more installments of an assessment when due under sections 19(e)
18 or 23 of this chapter, the board may certify the following to the
19 county auditor of each county where the property is located:

20 (1) The name of each owner of the property.

21 (2) The description of the property, as shown by the records
22 of the county auditor.

23 (3) The amount of the unpaid annual installment of the
24 assessment determined under this section.

25 The certification must be made not later than the applicable date
26 under IC 36-2-6-14.5. The county auditor shall place the total
27 amount certified under this subsection on the tax duplicate for the
28 affected property as a special assessment. All special assessments
29 certified under this subsection are payable to the treasurer of the
30 county in which the property that is subject to the special
31 assessment is located. A county treasurer shall bill, collect, and
32 enforce the special assessments in the same manner that property
33 taxes are billed, collected, and enforced. The county treasurer shall
34 specify on each property tax statement that the special assessment
35 under this subsection is separate and distinct from ad valorem
36 property taxes and other special assessments. Except as provided
37 in section 23(2) of this chapter, a county treasurer shall distribute
38 special assessments collected under subsection (b) to the county
39 auditor for deposit in a separate, special fund from which
40 payments to commercial lenders or other third parties that provide
41 financing may be made under section 23(1) of this chapter.



1 (c) The property owner who submitted the original application
 2 under section 19 of this chapter for a qualified clean energy
 3 improvement, and any subsequent owner of the property, may pay
 4 off the total amount of an assessment for the property before the
 5 end of the applicable assessment period without penalty. Upon
 6 payment in full of the total amount of the assessment, including any
 7 interest or penalties owed, the board shall cause the property to be
 8 removed from the assessment roll prepared and recorded under
 9 section 20 of this chapter, and shall release any lien for an
 10 assessment recorded under section 22 of this chapter with respect
 11 to the property.

12 Sec. 22. (a) An assessment against real property under this
 13 chapter constitutes a lien against the property assessed. The lien is
 14 superior to all other liens except:

15 (1) notwithstanding section 18(8)(C) or 19(a)(4) of this
 16 chapter, liens for delinquent property taxes, special
 17 assessments certified under a provision other than this
 18 chapter, or sewer charges; and

19 (2) a first lien mortgage or subordinate lien mortgage;
 20 recorded with respect to the property before the assessment roll
 21 listing the property is recorded under section 20(b) of this chapter.

22 (b) Notwithstanding IC 6-1.1-22-13.5, a lien for an assessment
 23 under this chapter attaches in the manner liens attach under
 24 IC 36-9-23. In addition to the procedures for the collection and
 25 enforcement of a special assessment certified under section 20(b)
 26 of this chapter, a lien under this chapter may be enforced and
 27 foreclosed in the manner liens are enforced and foreclosed under
 28 IC 36-9-23.

29 Sec. 23. A board may authorize the financing of clean energy
 30 improvements with owner arranged financing from a commercial
 31 lender. Under this arrangement, the board may levy an assessment
 32 under section 19 of this chapter and either:

33 (1) collect assessment payments and forward the payments to
 34 the commercial lender; or

35 (2) authorize a property owner to pay the assessments directly
 36 to the commercial lender.

37 Sec. 24. Energy that is conserved, or that is produced from one
 38 (1) or more clean energy resources, on a property on which a
 39 qualified clean energy improvement is installed under a program
 40 established under this chapter must be:

41 (1) designated as an energy savings; and



1 (2) credited to the utility providing retail energy service to the
 2 property;
 3 for purposes of any initiative, rule, or order approved by the
 4 commission to promote the efficient use and production of
 5 electricity, including initiatives to implement demand side
 6 management, energy efficiency, or conservation measures in
 7 accordance with commission rules, regardless of whether the
 8 qualified clean energy improvement qualifies for a rebate program
 9 offered by the utility.

10 Sec. 25. (a) Not later than June 1, 2014, the commission shall
 11 adopt rules under IC 4-22-2 to establish technical guidelines to
 12 assist units in administering a program under this chapter,
 13 including guidelines that units may use to do the following:

14 (1) For qualified clean energy improvements described in
 15 section 13(1) through 13(3) of this chapter, determine the
 16 appropriate intervals during the term of an assessment period
 17 at which to require a qualified provider or a utility to
 18 calculate:

19 (A) projected net energy costs or projected net water costs;
 20 and

21 (B) actual net energy costs or actual net water costs;
 22 for particular types of clean energy improvements, based on
 23 the number of years in the assessment period for the qualified
 24 clean energy improvement and the technology involved, as
 25 described in section 17(b)(6)(A) of this chapter.

26 (2) For qualified clean energy improvements described in
 27 section 13(1) through 13(3) of this chapter that are financed
 28 with more than two hundred fifty thousand dollars (\$250,000)
 29 in assessments, establish a reconciliation mechanism to:

30 (A) account for any variance between projected net energy
 31 costs and actual net energy costs, or between projected net
 32 water costs and actual net water costs, as applicable, at the
 33 intervals described in subdivision (1); and

34 (B) provide for a refund or credit to the property owner, or
 35 a payment or surcharge from the property owner, as
 36 appropriate, to adjust for the variance;

37 as described in section 17(b)(6)(B) of this chapter.

38 (b) The commission may adopt emergency rules under
 39 IC 4-22-2-37.1 to implement this section. Notwithstanding
 40 IC 4-22-2-37.1, an emergency rule described in this subsection
 41 expires on the date a rule that supersedes the emergency rule is



1 adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

2 **Sec. 26. Participation in a voluntary property assessed clean**
3 **energy program established under section 17 of this chapter does**
4 **not exempt property or a participant from any net metering**
5 **surcharge to a customer of a public utility that may be imposed by**
6 **a public utility to recover part or all of the costs of equipment or**
7 **services related to allowing the customer to generate its own**
8 **energy and sell its excess energy back to the public utility in order**
9 **to offset the costs of the customer's energy supplied by the public**
10 **utility, regardless of when the participant installed qualified clean**
11 **energy improvements under this chapter.**

12 SECTION 2. An emergency is declared for this act.

